



The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

April 5, 2004

Northland Mall LLC  
Alan Daviduck  
PO Box 266  
East Hampstead, NH 03826

**NOTICE OF NON-COMPLIANCE and  
PERMIT REVOCATION – NCPR # 04-021**

Amtul Khoula  
134 Newton Road Unit #1  
Plaistow, NH 03865

**RE: PLAISTOW, NORTHLAND GROCERS, EXISTING UNDERGROUND STORAGE TANK  
FACILITY (UST #A- 0113893) (DES # 199104036)**

Dear Gentlemen

The New Hampshire Department of Environmental Services ("DES") is hereby notifying you that the above-referenced facility, located at 134 Newton Road, Plaistow, NH is not in compliance with New Hampshire Code of Administrative Rules Env-Wm 1401, regulating Underground Storage Facilities. In accordance with Env-Wm 1401.04(c), if facility ownership is in dispute, the owner of the property on which the facility is located shall register the facility, shall be deemed to be the facility owner, and shall provide the information required by registering the facility under Env-Wm 1401.06. It is our understanding Mr. Amtul Khoula has abandoned the UST systems located at this site. Since Northland Mall LLC is the property owner, it is being included in this notification letter and shall register the facility in accordance with Env-Wm 1401.06.

On May 15, 2003 a DES inspector conducted a compliance audit at the facility. A written document, describing the deficiencies was provided to the facility representative (copy attached). This document required the facility be returned to compliance within 45 days, and DES be notified of the corrective measures taken. Compliance has not been achieved. **Failure to achieve compliance with the following deficiencies within 90 days from the date of this Notice of Non-Compliance and Permit Revocation ("Notice") will result in revocation of your Permit-to-Operate on July 4, 2004. This letter contains important compliance and procedural information. Please read it carefully.**

Env-Wm 1401.26 Leak Monitoring for New Tanks and Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.26 and/or Env-Wm 1401.31 require that a leak monitor for double-wall tank systems continuously operate. The leak monitoring equipment and devices shall be tested annually for proper operation in accordance with manufacturer's requirements. DES has determined that the annual leak monitor test had not been conducted. The annual test shall be conducted and the documentation shall be provided to DES.

2. Env-Wm 1401.30 Release Detection for Piping

Env-Wm 1401.30 requires all pressurized piping without secondary containment and leak monitoring to be monitored for releases using groundwater monitoring, soil vapor monitoring, or

**P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095**

Telephone: (603) 271-3644 • Fax: (603) 271-2181 • TDD Access: Relay NH 1-800-735-2964

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

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an annual line tightness test. Piping tightness test results for all of the piping systems at both USTs shall be provided to DES

In addition, Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirement. This facility has not achieved compliance, consequently, the Fund is not available to you as a financial responsibility mechanism.

In accordance with RSA 146-C:4 and Env-Wm 1401.07(a), no person shall own or operate an underground storage facility without a permit issued by DES. Within 30 days from the date of the permit revocation the facility shall be closed in accordance with Env-Wm 1401.18 for permanent closure.

Based on the compliance deficiencies described above, DES believes this facility poses a potential substantial threat to the surface and groundwater of the state. Therefore, in accordance with RSA 146-C:4 and Env-Wm 1401.09, if compliance as requested above is not achieved within ninety (90) days of the date of this Notice your Permit-to-Operate (UST Permit #0113893) shall be revoked effective **July 4, 2004**. Within thirty (30) days of the date of permit revocation all regulated substances must be removed from the UST systems at this facility. If the facility achieves compliance during the ninety (90) day period, it is necessary that documentation be submitted to DES verifying that compliance has been attained.

You have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which you and any witnesses you may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If you wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31 III(e) provides that you have the right to have an attorney present to represent yourself at your own expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) you have the right to request DES to provide a certified shorthand court reporter at your own expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

You may waive your right to a hearing. If you waive the hearing, DES is prepared to proceed with the actions as stated above. You should notify DES of your decision by filling out and returning the enclosed form.

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If there are any questions concerning the above, I may be contacted at the Waste Management Division at (603) 271-1165.

Sincerely,

  
**COPY**

Lynn A. Woodard, P.E.

Supervisor

Oil Compliance and Initial Response Section

Northland LLC CERTIFIED MAIL # 7000 1670 0000 0584 4608

Amtul Khoula CERTIFIED MAIL # 7000 1670 0000 0584 4592

cc: Michael P. Nolin, Commissioner  
Mark Harbaugh, DES Legal Unit  
Fred McGarry, P.E., Chief Engineer, WMD  
George Lombardo, P.E., WMD  
Tom Beaulieu, WMD  
Health Officer, Town of Plaistow

DES #:199104036  
UST #:0113893

OWNER: AMTUL KHOULA  
134 NEWTON RD UNIT #1  
PLAISTOW, NH  
AMTUL KHOULA (603) 382-9716

$$X = \text{Non-compliance} \quad N/A =$$

Tank Registration: 4/4/1991

**Permit Expiration: 4/30/2008**

# PLAISTOW

**location: NORTHLAND GROCERS**  
**134 NEWTON RD**

Permit Posted:

\* = See Notes

5-11-10

Permit Fee Paid? ( Yes ) No Due?

Field Citation Issued? Yes

## Tanks

Tank No.		2
Date Installed	8/15/1990	
Tank Size (Gallons)	5000	
Product	GAS	
Material S/D Wall	DW	STC
Spill Installed	8/15/1990	C
Overfill Installed	8/15/1990	X <sup>(1)</sup> X <sup>(2)</sup>
Inventory Control	8/15/1990	X <sup>(7)</sup> X <sup>(2)</sup>
Monitor System Installed	8/15/1990	X <sup>(2)</sup> None Listed
R.D. Installed		N/A
Monitor /R.D. Records	3	X
C.P. Installed	no date	C SA
C.P. Test Records	3/7/2002	C Pass
Material	DW	FIB
Pump Type	Pressure	
L.L.D. Installed	8/15/1990	C
L.L.D. Test Results	12	X <sup>(4)</sup>
Monitor / R.D. Installed	8/15/1990	None
Monitor / R.D. Test Results		X <sup>(5)</sup>
C.P. Installed		
C.P. Test Results		X <sup>(6)</sup>
System Tightness Test	NA	
Stage I	X <sup>(5)</sup>	X <sup>(3)</sup>
Stage II	2	2

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Pratt

Date \_\_\_\_\_

Date 5/13/03

Owner/ Representative Signature

Nile  
ner/ Representative S

Date \_\_\_\_\_

05-15-03

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ALL NON COMPLIANCE ITEMS MUST BE CORRECTED within 30 days AND DOCUMENTATION SUBMITTED TO NHDES within 45 days.



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3644 FAX (603) 271-2181



UST Facility  
Summary of Deficiencies

Inspection Date/Time: 05/15/2003 11:17 AM  
DES Inspector: Spruce Wheelock  
Facility Representative: AMTUL KHOULA  
Facility Name: NORTHLAND GROCERS  
Town: PLAISTOW  
Facility ID: 0-113893

**Tank Inventory  
Control**

- X Env-Wm 1401.11 requires that inventory monitoring be conducted and inventory records be maintained on motor fuel, hazardous substance and bulk heating oil systems without secondary containment and leak monitoring for both tank and piping. DES has determined that:  
*The product level was not being measured and recorded in gallons before and after delivery. Please provide one-month inventory monitoring results showing product levels for all UST systems as noted.*
- X The product level was not measured and recorded in gallons for each operating day. *Please provide one-month inventory monitoring results for all UST systems as noted.*
- X The loss or gain of product in gallons was not calculated for each operating day. *Please provide one-month inventory monitoring results for all UST systems as noted.*
- X The total monthly loss or gain of product in gallons (monthly variance) was not calculated. *Please provide one-month inventory monitoring results for all UST systems as noted.*
- X The total monthly maximum loss or gain of product allowable (monthly variance) was not calculated. Pump meter reading (uses) or sales  $\times 0.01 + 130$  gallons. *Please provide one-month inventory monitoring results showing total monthly maximum loss or gain of product allowable (monthly variance) calculations i.e. pump meter reading (uses) or sales  $\times 0.01 + 130$  gallons for all UST systems as noted.*
- X Reporting to DES was not conducted for exceeding monthly allowable product variance. *Please reporting to DES monthly allowable product variances for all UST systems as noted.*
- X Monthly measurement of water level in inches was not conducted. *Please provide one-month inventory monitoring results showing water levels for all UST systems as noted.*
- X The monthly inventory was not signed by the owner certifying the accuracy of the records. *Please provide a signed one-month inventory monitoring results for all UST systems as noted.*

**Tank Overfill  
Protection**

- X Env-Wm 1401.25 requires overfill protection devices be installed and maintained in good working order on all UST systems. DES has determined that:  
*The overfill protection device (flapper valve) was not installed at the required 95% shut off level. Please provide overfill protection installation at the and 95% shut off level for all UST systems as noted.*

**Tank Monitor  
System**

- X Env-Wm 1401.26 and/or 1401.31 requires a leak monitor for double wall tank systems continuously operate. The leak monitoring equipment and devices shall be tested annually for proper operation in accordance with manufacturer's requirements. DES has determined that:  
*The leak monitor for the interstitial area of the tank system listed was not working. Any malfunction must be repaired within 15 working days or the affected systems shall be temporary closed (all product removed to less than 1-inch) until satisfactory repairs are made. Please provide monitor replacement or maintenance results for all UST systems as noted.*

**Tank  
Monitor/Release**

Env-wm 1401 requires test records be maintained for interstitial monitor and release detection records. DES has determined that:

## **UST Facility Summary of Deficiencies**

- X                      The annual test documentation was not available for the tank leak monitoring equipment and devices. ***Please provide release detection test results for all UST systems as noted.***
- Piping Line Leak  
Detector Test**
- X                      Env-1401.30 requires records be maintained for line leak detector tests. The DES has determined that:
- X                      a. The passing annual line leak detector test had not been performed. ***Please provide line leak test results for all UST systems as noted.***
- Piping Monitor  
Or Release**
- X                      Env-wm 1401 requires records be maintained for monitoring testing of the piping and release detection records for the piping. DES has determined that:
- X                      The annual tightness test documentation was not available for the piping. ***Please provide monitor test results for all UST systems as noted.***
- Piping Corrosion  
Protection**
- X                      Env-Wm 1401.33 requires corrosion protection be installed on regulated piping prior to December 22, 1998. DES has determined that:
- X                      Liquid needs to be removed from the tank sumps to isolate piping, or corrosion (cathodic) protection needs to be installed. ***Please provide corrosion protection installation documentation prepared by a corrosion protection expert or documentation that liquid has been removed from the sumps.***
- Vapor Recovery**
- X                      The correct Stage I vapor recovery vent caps were not installed. ***Please provide documentation that the correct caps were installed.***